

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF NASHWAUK

Da the Matter of the Revocation
of Any interest in a Liquor License
Held by David Kinn.

FINDINGS OF FACT,
CONCLUSIONS OF LAW
RECOMMENDATION AND
MEMORANDUM

The above-entitled matter came on for hearing before the Nashwauk City Council on August 14, 1984, at 6:00 p.m. in the City Council Chambers. Allan W.. Klein, an Administrative law Judge from the State Office of Administrative Hearings, had been retained, pursuant to Minn. Stat. sec. 14.55, to conduct the hearing and present oral Findings of Fact, Conclusions of Law and a Recommendation to the City Council.

Appearing on behalf of the City of Nashwauk was City Attorney John Hawkinson, of the law firm of Chalupsky, Nyberg & Hawkinson, Ltd., 20 N.E. Fourth Street, Grand Rapids, Minnesota 55744. All members of the City Council were present for the hearing. David Kinn did not appear, nor was he represented by any other person.

Based upon all the proceedings, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. That on April 10, 1984, the Nashwauk City Council granted an on-sale liquor license to David Finn, subject to a number of conditions. Included in those conditions were (1) that he begin construction within 30 days from April 11, 1984, and (2) that the building be substantially completed and open for business within 90 days. The resolution granting the license indicates that if the conditions are not met, the license would be subject to revocation.

Mr. Finn was represented at that April 10 meeting by Timothy Marx, of the Fryberger Law Firm in Duluth.

2. That on May 11, 1984, the Nashwauk City Council passed a resolution directing Kinn to purchase -a liquor- license and pay delinquent real estate taxes on the premises by May 29, 1984.

3. That on June 5, 1984, the City Clerk received an unsigned letter, with a typewritten signature of David Finn, indicating that he had decided not to rebuild in the City.

4 That as of August 14, 1984, Kinn had not paid \$1,137.80 of taxes owed for 1983.

5. last as of August 14, 1984, Kinn had not paid the first half of the 1984 real estate taxes, in the amount of \$2,806.46. This first payment was due on June 15, 1984, and the amount set forth above reflects a delinquency penalty.

6. last as of August 14, 1984, Kinn had not paid the liquor license fee due and owing.

7. That as of August 14,, 1984, there was no building on the subject pro-perty. All that was present on the lot is a concrete slab and some wooden concrete forms. The licensed operation was not open for business.

8. &at on July 27, 1984, Kinn was personally served with a Notice of Hearing, setting forth all of the above matters as grounds for revocation. The notice set the hearing date for August 14.

Based on the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CCNCLUSIONS OF LAW

1. That Notice of the Hearing was given in a timely fashion, pursuant to S 10 of the Nashwauk City Ordinance #147.

2. That all other procedural requirements of law have been met, and the City Council does have jurisdiction to take the proposed action.

3. That Kinn is in default in this matter.

4. That Kinn violated the conditions of his license as set forth in the City Council minutes of April 10, regarding substantial completion of his building and being open for business within 90 days.

5. That Kinn violated the resolution of the City Council as set forth in the City Council minutes of May 11, regarding purchase of a liquor license and payment of back taxes.

6. That Kinn has violated Nashwauk City Ordinance #147 by failing to pay the license fee.

7. That by virtue of the letter, the above actions, and by his default in this proceeding, Kinn can be deemed to have abandoned his license.

Based upon the foregoing, the Administrative Law Judge makes the following:

RECOMMENDATION

That the Nashwauk City Council may revoke any interest in a liquor license held by David Kinn.

Dated this 16th day of August, 1984.

Allan W. Klein
Administrative Law Judge

Reported: Taped.

MEMORANDUM

Pursuant to the request of the City Council, the Administrative Law Judge delivered his Findings, Conclusions and Recommendation orally, after the hearing had concluded. This written report is substantially the same as that oral presentation.

A. W. K.